

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
ATHENS DIVISION

JAMES W. HARRIS,

Petitioner

VS.

TONY HOWERTON, Warden,

Respondent

**NO. 3:07-CV-17 (CDL)**

**PROCEEDINGS UNDER 28 U.S.C. § 2254  
BEFORE THE U.S. MAGISTRATE JUDGE**

**ORDER**

On June 7, 2007, petitioner JAMES W. HARRIS filed a motion seeking dismissal of the above-captioned habeas corpus action. Tab #11. On January 23, 2008, the undersigned directed the petitioner to apprise the court of the status of his state court proceedings. Tab #17. Petitioner has failed to comply with the court's order.

However, information provided to the court by the respondent indicates that the public defendant of Madison County has been provided to represent petitioner Harris in his apparently unexhausted state proceedings. Tab #16. Petitioner's MOTION TO DISMISS filed June 7, 2007 will therefore be treated as a request for VOLUNTARY DISMISSAL of this federal action.

Accordingly, the Clerk is directed to close this proceeding with the notation that this dismissal is *without prejudice* to the right of petitioner to refile in federal court once he has exhausted his state remedies, provided he is otherwise in compliance with other requirements of law, specifically, the Anti-Terrorism and Effective Death Penalty Act (AEDPA).

SO ORDERED AND DIRECTED, this 11<sup>th</sup> day of FEBRUARY, 2008.



CLAUDE W. HICKS, JR.  
UNITED STATES MAGISTRATE JUDGE